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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	Art Unit:
NYKJAER, et al.	)	Examiner:
Appl. No.: 10/539,443	)	Washington, D.C.
Filed: June 20, 2005	)	May 2, 2006
For: MODULATION OF ACTIVITY OF NEUROTROPHINS	)	Docket No.: NYKJAER=1
05/09/2006 MKAYPAGH 00000183 10539443	)	Confirmation No.: 6823

01 FC:2642 200.00 OP
02 FC:2633 100.00 OP
03 FC:2615 [illegible] OP
04 FC:2614 700.00 OP

RESPONSE TO "SEQUENCE LISTING" REQUIREMENT

U.S. Patent and Trademark Office
Customer Service Window
Randolph Building, Mail Stop Missing Parts
401 Dulany Street
Alexandria, VA 22314

Sir:

In response to the Notice to Comply, mailed March 2, 2006, a copy of which is attached, applicant (1) pays additional fees as calculated below, and (b) submits a sequence listing.

1. Additional fees as calculated below:

[XX] Search fee			$ 400.00
[XX] Examination fee			$ 200.00
Surcharge of $130.00 for furnishing the oath or declaration later than [ ] 20 [ ] 30 months from the earliest claimed priority date (37 CFR 1.492(e)).			n/a
Number of each additional 50 pages or fraction thereof (round up to a whole number)		RATE	
		X $250.00	n/a
Number of Claims	Number of Extra Claims	Rate	
53 - 20 =	33	X $ 50.00	$1650.00
7 - 3 =	7	X $200.00	$1400.00
Multiple Dependent Claims (if applicable)		+ $360.00	$
		TOTAL OF ABOVE CALCULATIONS	$3650.00
Reduction of ½ for filing by small entity, if applicable. Applicant claims small entity status. See 37 CFR 1.27.			<$1825.00>
		SUBTOTAL	$1825.00
Processing fee of $130.00 for late furnishing of the English translation.			n/a
		TOTAL NATIONAL FEE	$1825.00

[XX] Credit Card Payment Form, PTO-2038, authorizing payment the amount of $1,825.00 is enclosed to cover the above fees.

[XX] Conditional Petition for Extension of Time:

If any extension of time for a response is required, applicant requests that this be considered a petition therefor.

[XX] The Commissioner is hereby authorized and requested to charge any additional fees which may be required in connection with this application or credit any overpayment to Deposit Account No. 02-4035. This authorization and request is not limited to payment of all fees associated with this communication, including any Extension of Time fee, not covered by check or specific authorization, but is also intended to include all fees for the presentation of extra claims under 37 CFR 1.16 and all patent processing fees under 37 CFR 1.17 throughout the prosecution of the case. This blanket authorization does not include patent issue fees under 37 CFR 1.18.

2. Please amend the application as follows:

IN THE SEQUENCE LISTING

Please substitute the attached Sequence Listing, numbered as pages 1-33 for the Sequence Listing previously submitted.

REMARKS

1. Applicants hereby submit the following:

[XX] a paper copy of a "Sequence Listing", complying with §1.821(c), to be incorporated into the specification as directed above;

[ ] an amendment to the paper copy of the "Sequence Listing" submitted on , the amendment being in the

form of substitute sheets;

[XX] the Sequence Listing in computer readable form, complying with §1.821(e) and §1.824, including, if an amendment to the paper copy is submitted, all previously submitted data with the amendment incorporated therein;

[ ] a substitute computer readable form to replace one found to be damaged or unreadable.

[ ] The computer readable form in this application no. 09/... is identical with that filed on .... [date sequence was filed] in application no. 09/ , filed [filing date]. In accordance with 37 C.F.R. §1.821(e), please use the [first-filed, last-filed or only, whichever is applicable] computer readable form filed in that application as the computer readable form for the instant application. It is understood that the Patent and Trademark Office will make the necessary change in application number and filing date for the instant application. A paper copy of the Sequence Listing is [included in the originally-filed specification of the instant application, included in a separately filed preliminary amendment for incorporation into the specification, whichever is applicable].

[XX] 2. The description is believed to comply with §1.821(d).

3. The undersigned attorney or agent hereby states as follows:

(a) this submission does not include new matter [§1.821(g)];

(b) the contents of the paper copy (as amended, if applicable) and the computer readable form of the Sequence Listing, are the same [§1.821(f) and §1.825(b)];

(c) if the paper copy has been amended, the amendment is supported by the specification and does not include new matter [§1.825(a)]; and

(d) if the computer readable form submitted herewith is a substitute for a form found upon receipt by the PTO to be damaged or unreadable, that the substitute data is identical to that originally filed [§1.825(d)].

4. Under U.S. rules, each sequence must be classified in <213> as an "Artificial Sequence", a sequence of "Unknown" origin, or a sequence originating in a particular organism, identified by its scientific name.

Neither the rules nor the MPEP clarify the nature of the relationship which must exist between a listed sequence and an organism for that organism to be identified as the origin of the sequence under <213>.

Hence, counsel may choose to identify a listed sequence as associated with a particular organism even though that sequence does not occur in nature by itself in that organism (it may be, e.g., an epitopic fragment of a naturally occurring protein, or a cDNA of a naturally occurring mRNA, or even a substitution mutant of a naturally occurring sequence). Hence, the identification of an organism in <213> should not be construed as an admission that the sequence *per se* occurs in nature in said organism.

Similarly, designation of a sequence as "artificial"

should not be construed as a representation that the sequence has no association with any organism. For example, a primer or probe may be designated as "artificial" even though it is necessarily complementary to some target sequence, which may occur in nature. Or an "artificial" sequence may be a substitution mutant of a natural sequence, or a chimera of two or more natural sequences, or a cDNA (i.e., intron-free sequence) corresponding to an intron-containing gene, or otherwise a fragment of a natural sequence.

The Examiner should be able to judge the relationship of the enumerated sequences to natural sequences by giving full consideration to the specification, the art cited therein, any further art cited in an IDS, and the results of his or her sequence search against a database containing known natural sequences.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant(s)

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